2: Hudson E-4, 5 (1936) 1938 RQ2 Kazak RQ2

The general practice of allotting to a man's sons, as they came of age, their share of the inheritance was an important factor in facilitating the formation of new uru groups. This process has been mentioned in the discussion of the nature of the uru and will be evident again in a consideration of other Turkic and Mongol peoples.

DEBTOR AND CREDITOR

The wealthy patron and the poor relative frequently appear in the relation of creditor and debtor. The importance of this relation is reflected in the special terminology for loans of different kinds of animals; savɓn, for example, means the loan of a milch cow, and majɓn, the loan of a horse. Animals were frequently borrowed for the purpose of paying the bride price. Such loans were made in the presence of witnesses. Ujfalvy[64] says that one hundred percent interest was customary. According to my information interest was paid on these loans in the form of labor by the debtor for the creditor in addition to repayment of the animals. Dingelstedt[65] does not specify the nature of interest but remarks that there were generous individuals who lent without interest. He adds that the site of the winter quarters was sometimes offered as security for the loan. My informants said that in default of payment the debtor was obliged to work for his creditor without payment until the value of the loan had been covered at the rate of about seven sheep a year, which was the approximate wage of a shepherd.

There is, apparently at least, a difficulty here. Under the patriarchal relationship existing between the wealthy herd owners and their poor relatives, the latter might be already serving his patron as shepherd and general handyman without wages for his living only. How then would he repay the debt? The only information I could get was that the unfortunate individual simply kept on working as before.

There seems to be a very important point involved here, much more so than the dilemma of the unfortunate defaulter, namely the nature of the relationship between patron and client and the significance of the bonds of kinship in the uru. There are apparently two tendencies involved, or two points of view from which the relationship can be considered. Regarded as a benevolent patron and protector, the wealthy man gave aid, protection and support to his poorer relatives in recognition of the claims of kinship and as a natural obligation of his position in return for the services of his dependents as herdsmen in times of peace and armed retainers in war. No exact mechanical balancing of accounts on behalf of each was possible. On the other hand the wealthy herd owners may be regarded as harsh exploiters of the poor, intent only on exacting from them as much as possible in the form of service and labor, and giving in return as little as possible.

Tlenshiev was clearly aware of these divergent points of view. After talking about the loan of cows, horses or sheep as might be needed by the rich to their dependents, he grew suddenly thoughtful and then explained that although these facts had been used by "coun-

[64] Ujfalvy de Mezö-Kövesd, *Expédition scientifique*, 3: 112.
[65] Dingelstedt, *Le Droit coutumier*, 216.

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ter-revolutionists" and "bourgeois historians" as the basis of a claim that "primitive communism" existed among the Kazak I must not permit myself to be led astray by them. Actually, he said, they were merely devices used by the ruling class to cloak their exploitation of the masses and hold them in subjection.

Both aspects of the relationship of client and patron must of course be borne in mind, and one must distinguish between the theory of uru solidarity and its practice. As regards the details of the debt relationship it is not unlikely that the making of loans for interest as a more or less business transaction was a comparatively recent development influenced by trade relations with the Central Asian commercial centers to the south and later with Russia on the north.

It is interesting to note as an indication of the advantageous position of the patron that if he himself became entangled in debts the amount was requisitioned from among his dependents. Grodekov mentions the practice of taking up a collection to pay the debts of a rich man.[68] Further aspects of the patron client relationship will be considered later in relation to class stratification.

[68] Dingelstedt, *Le Droit coutumier*, 222–23.

428 linquish half, i. e., each receives one-sixth. In general they give as much as is needed for support. For this reason the elders tell those receiving their allotment that they are young and will still earn their living, and tell them to be satisfied with little. "I myself," added the informant, the Kirgiz bii Daniyar, "told my father, as I brought him clothing (sarypay): 'If you want to give me property, do so, and if not, then give me your blessing (fatikha).'

In addition to livestock, 1) the money of the father, if they all know of its existence, 2) land (1) and 3) debts are subject to the

1. According to reports from the Auliye-Ata uyezd, land is not divided, for those receiving an allotment can s. can seek other land for themselves.

family division of inheritance.

428 If the debts of the father are discovered after the allotment, 426 then he is liable before the court and pays the son who received the succession. Formerly all the children paid the debts of the father after consultation with each other (kamtu klb). Now only he who receives the succession pays, and futhermore he pays it from his inheritance and not from what he has acquired, on which he is obliged to present proof or an oath. /50/ Children who have not received their allotments do not pay for living parents who are absent. Sons who have received their inheritance are legally not obliged to pay the debts of the father, because they cannot know about them, but morally they are obliged (khalal ul tuleydi). It is apparent from the books of the biis in the Perovsk uyezd that the biis reject claims against the sons for the debts of the father, basing themselves on the "exact customary law" (tolyk adat). Children who have received their allotments refuse to pay their father's debts, referring to the fact that "their portion is different, they have a special earmark" (inchim bulek, enim baska). But if they are ashamed to leave the debt to the father (atamyzga karz kylmaymyz), and wish to help the one who has received the succession, the debt is divided into 3 parts, of which one is paid by the successor, and two by the remaining brothers. Sometimes the rich sons are obliged to pay more, and the poor ones less.

Among the Kirgiz, according to bii Kurpetay Dauletkulov, the debts of the father are not adjudged to be paid from the inheritance. They only advise that a debt should be paid, if it is proven, because of the responsibility in the future life (kyyamet karz).

If the plaintiff appears before the division of the inheritance, 428
the debt is disposed of first, and then the division is made. If this 426
is found to be inconvenient, then the sum of the debt is distributed among the children in accordance with the allotment received by them. If the debt is greater than the property and the children wish to make the division (during the lifetime or after the death of the father), first of all something is put aside for a funeral and memorial service, and then the remaining property is divided equally and the debt as well.

If the father has only one daughter, then he must pay his debts from her kalym. After the death of the father a daughter without property is never answerable for his debts. However if the inheritance and the tent go to the only daughter, her guardian or "master" (kyzn-yng iese) is liable from the inheritance.

If a bride dies before her marriage, the part of the kalym which has already been paid is obliged (suzsiz) to be returned, with the father of the bride being allowed to give it to the court for those obligations of debt which the son-in-law took upon himself in another connection (books of the biis of the Perovsk uyezd).

/51/ The people require the son to pay the debts of his impoverished father on the grounds that the father went in debt in caring for the son (Torgai).

The inheritance (miras) (1) can consist of livestock, of money, 428

1. Perhaps there is inaccuracy in the division of means of acquiring property in Makovetskii (I. p. 37) as: 1) ata murasy - that inherited from the father, 2) uzi tabasy - that acquired oneself, and 3) burushty mal - profits from trade, matchmaking, loans and other affairs. At any rate Torgai divides property into: 1) ata murasy or ata mul'ki and 2) uz tabkany. But he did not understand the words burushti mal. Is this not the Russian word barysh /profit/?

of a tent with domestic furnishings, and of land, and in former times, also of slaves. The saying "among the Kazakhs the wife is inherited, among the Sarts the land is the inheritance" (kazaktyng katyny miras, sarttyng yeri miras) testifies to the fact that the widow is considered as an inheritance. The children can also be called miras.

Except for admonitions, no wills are recognised. The father cannot will so much to one son and so much to another. All the inheritance goes to those who have not received allotments, i. e.,

entrusted for safe-keeping before it is accepted (the Kirgiz Kurpetai Dauletkulov). 422

When someone migrates with his herds into a strange winter camp, he usually asks its owners to give him a place on the conditions of amanat. At first they refuse him. Then he promises to repay them. After this, in part for the sake of a good deed (savab), and in part for profit, they give him a place, but for no more than one year.

In contradiction to Makovetskii, according to Torgai it is not customary to lend out milking animals for money. Oxen, horses and camels are lent out on shares (seriklikke) for agriculture. 426

/124/ If an animal which has been taken as an amanat is returned in a very emaciated condition which makes its owner think that it will not live through the winter, then the person keeping it for safe-keeping promises to feed it until the spring. 422

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Something which was given or contributed for a pious (nazr) or charitable (kudai) end is not returned, nor is a gift intended to honor a superior (izzat) or a inferior (inam) person. 431

Clothing given by highly placed personages should be worn during presentations to these persons. [576]

Gifts for friendship, called kolka, are subject to return if they are not reciprocated for by similar gifts in the course of a certain time (Auliye-Ata uyezd). Among the Kirgiz, stealing one's gift back is punished like ordinary stealing. According to Torgai, the bii says to the thief: "Why did you give it away? Now it is already his property." The defendant replies: "My relatives did not consent to the gift which I gave. I was ashamed to demand it back, and therefore I stole it." The bii either requires him to return the stolen object to the one to whom it was given, without a fine for stealing, or else sentences him to a fine, without returning the object, since the thief was its owner. [685]

If someone is driving military booty, those who encounter him say say: "Hey heroes, give us sauga! (1) Then it is obligatory to give up

1. Among the Kazakhs sauga means a gift asked from those returning from war (according to bii Khalmakhammed). Among the Sarts, however, sauga or saugati means the same as what the Kazakhs call bazarlyk.

a horse, sheep or some other object.

431 not guarantee its quality. The bii requires the warrantor to find the
432 seller, but does not sentence him to pay the pshaymana. If the seller is not found the case remains without further result.

Formerly it was possible to renounce a purchase or sale which was already completed, on the ground that it was bought for too much, or sold too cheaply. There is even a proverb: "The sale of a horse can be broken off for a month, and the sale of a camel, in the course of a year" (at saudasy ayinda kaytady, tyuya saudasy yilinda kaytady). This is never done now. If the buyer or seller claims he was deceived in the sale of an animal or other object, saying that they convinced him falsely of the expensiveness of the object, its newness, of the general pennilessness of the bazaar, etc. the sale is not broken off, because they do not believe the claimant, and feel that he is simply renouncing the sale (aynydy).

Among the Kirgiz, an agreement is made on the period of time within which an animal can be returned, in case defects are discovered in it. If such an agreement was not made, it is not customary to return the animal. A declaration saying the animal was too dear, although without defects, is also not accepted among the Kirgiz.

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436 When borrowing on credit (karz beresek) the presence of witnesses and guarantors is obligatory. In general, they try to have witnesses.

If the defendant denies the existence of a debt, then an oath is required on general grounds, as in cases of crime. But a debt (1)

1. The requirement of percentages (usum, payda, idzhara) is not obligatory. Credit is given with interest and without it. According to the communication of Abulfaiza of the Chimkent uyezd, honorable /130/ Kazakhs take 20% a year, called deduazde, i. e., 12 for 10. Bad persons take 20 kopeks a month for one tillia /worth 3-4 rubles/. According to a report from the Perovsk uyezd, Kazakhs take 20 kopeks a month for a ruble, or else nothing. Among the Kirgiz, 20 kopeks a month interest (tuam) is paid for 4 rubles.

is exacted without a fine. The biilyk and the court costs are required from the debtor.

/130/ When livestock are taken on credit for the purpose of selling them, animals of the same breed are given in the repayment. If they were females, females are returned after a year with their offspring or without, sometimes with the addition, in place of the offspring, of other animals or money, depending on the circumstances.

Vouchers of debts are entering into usage more and more. Usually they indicate the sum of the debt with the interest based on the period of time of repayment. When part of the debt is paid, this is noted in the voucher.

If a person stands in debt to another according to a voucher, money is exacted from him even though he does not recognise the claim as valid. But if a claim is made without a voucher and the defendant does not admit it, a personal oath is required from him. If the defendant demonstrates that he had actually been in debt to the plaintiff, but had paid him the money, then an oath is required from the plaintiff personally, who swears only if the defendant presents to the court the entire sum being claimed.

The leaving of things as security (geru, shargy) is unknown on the steppe.(1) But they do mortgage winter camps with the buildings on them. This is done by people who owe money, but do not have any livestock. A winter camp worth 15-20 tillias is mortgaged for 8-10 tillias, for 1 or 1 1/2 years depending on the agreement. If they have mortgaged for half a year, it is expected (kutadi) to be paid off in a year. If they have mortgaged for one year, they wait for two years. After this term they demand that the mortgaged property be sold or given up to the person who has taken it as security. An evaluation is made and an extra sum is returned. (Torgai).

1. In cities, pawning /zalog/ among Kazakhs is considered as one of the forms of an amanat.

/131/ The value of domestic animals according to customary law. (Table follows).